

Short term let appeal rejected by Scottish Ministers

A short term holiday let owner has been told a licence to operate has no impact on Scottish Ministers ruling that the property is operating unlawfully.

The owner of the flat on Gullane Main Street had appealed after East Lothian Council refused to issue a Certificate of Lawfulness for the property which is popular with families and golfers.

Despite claims other properties in the building also operated as holiday lets, the Scottish Government Reporter, said the council's decision was 'well-founded'.

And she said the fact the council had issued a licence to operate the flat as a short term holiday let was not relevant in considering the appeal.

She said: "Although the appellant has obtained a licence to operate a short term let, this is not material to the issue of whether the use as a short term let is materially different from its use as a flat".

Applicant Sarah Marley had argued that the use of the property was not materially different to its use if it was home to long term residents and a certificate, which would mean there was no need to apply for a change of use planning permission,

should be issued.

And she said other flats in the house, and in the area, were used as holiday lets.

However the Reporter ruled the use of the three-bedroom flat for short term lets was different to residential use. She pointed to the high turnover of guests along with regular cleaning services coming into the shared main entrance and communal stairwell.

She also said claims by the owner that safeguards were in place to ensure neighbours were not disturbed could not be guaranteed because they did not stay there.

Rejecting the appeal she said: "I find that, on the balance of probability,

the use of this property for short-term letting accommodation entails a materially different pattern of use than that associated with its occupation on a normal domestic basis.

"I conclude that it amounts to a material change of use which requires planning permission.

"As no planning permission has been granted, I find that use is not established and is not lawful."

By Marie Sharp Local Democracy Reporter